

111TH CONGRESS  
1ST SESSION

# S. 1381

To amend the Internal Revenue Code of 1986 to provide additional tax relief for small businesses, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 25, 2009

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide additional tax relief for small businesses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Small Business Tax Relief Act of 2009”.

7 (b) REFERENCE.—Except as otherwise expressly pro-  
8 vided, whenever in this Act an amendment or repeal is  
9 expressed in terms of an amendment to, or repeal of, a  
10 section or other provision, the reference shall be consid-

ered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

**SEC. 2. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.**

(a) IN GENERAL.—Subsection (b) of section 179 (relating to limitations) is amended—

(1) by striking “\$25,000” and all that follows in paragraph (1) and inserting “\$500,000.”,

(2) by striking “\$200,000” and all that follows in paragraph (2) and inserting “\$2,000,000”,

(3) by striking “after 2007 and before 2011, the \$120,000 and \$500,000” in paragraph (5)(A) and inserting “after 2009, the \$500,000 and the \$2,000,000”,

(4) by striking “2006” in paragraph (5)(A)(ii) and inserting “2008”, and

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) of the Internal Revenue Code of 1986 (defining section 179 property) is amended by striking “and before 2011”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2008.

4 **SEC. 3. MODIFICATION OF CORPORATE INCOME TAX**  
 5 **RATES.**

6 (a) IN GENERAL.—Paragraph (1) of section 11(b)  
 7 (relating to amount of tax) is amended to read as follows:

8 “(1) IN GENERAL.—The amount of the tax im-  
 9 posed by subsection (a) shall be the sum of—

10 “(A) 15 percent of so much of the taxable  
 11 income as does not exceed \$1,000,000,

12 “(B) 25 percent of so much of the taxable  
 13 income as exceeds \$1,000,000 but does not ex-  
 14 ceed \$1,500,000,

15 “(C) 34 percent of so much of the taxable  
 16 income as exceeds \$1,500,000 but does not ex-  
 17 ceed \$10,000,000, and

18 “(D) 35 percent of so much of the taxable  
 19 income as exceeds \$10,000,000.

20 In the case of a corporation which has taxable in-  
 21 come in excess of \$2,000,000 for any taxable year,  
 22 the amount of tax determined under the preceding  
 23 sentence for such taxable year shall be increased by  
 24 the lesser of (i) 5 percent of such excess, or (ii)  
 25 \$235,000. In the case of a corporation which has

1 taxable income in excess of \$15,000,000, the amount  
 2 of the tax determined under the foregoing provisions  
 3 of this paragraph shall be increased by an additional  
 4 amount equal to the lesser of (i) 3 percent of such  
 5 excess, or (ii) \$100,000.”.

6 (b) EFFECTIVE DATE.—The amendment made by  
 7 this section shall apply to taxable years beginning after  
 8 December 31, 2009.

9 **SEC. 4. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL**  
 10 **BUSINESSES NOT SUBJECT TO ALTERNATIVE**  
 11 **MINIMUM TAX.**

12 (a) IN GENERAL.—Section 38(c) (relating to limita-  
 13 tion based on amount of tax) is amended by redesignating  
 14 paragraph (5) as paragraph (6) and by inserting after  
 15 paragraph (4) the following new paragraph:

16 “(5) SPECIAL RULES FOR ELIGIBLE SMALL  
 17 BUSINESS CREDITS.—

18 “(A) IN GENERAL.—In the case of eligible  
 19 small business credits—

20 “(i) this section and section 39 shall  
 21 be applied separately with respect to such  
 22 credits, and

23 “(ii) in applying paragraph (1) to  
 24 such credits—

1 “(I) the tentative minimum tax  
2 shall be treated as being zero, and

3 “(II) the limitation under para-  
4 graph (1) (as modified by subclause  
5 (I)) shall be reduced by the credit al-  
6 lowed under subsection (a) for the  
7 taxable year (other than the eligible  
8 small business credits).

9 “(B) ELIGIBLE SMALL BUSINESS CRED-  
10 ITS.—For purposes of this subsection, the term  
11 ‘eligible small business credits’ means the sum  
12 of the credits listed in subsection (b) which are  
13 determined for the taxable year with respect to  
14 an eligible small business. Such credits shall not  
15 be taken into account under paragraph (2), (3),  
16 or (4).

17 “(C) ELIGIBLE SMALL BUSINESS.—For  
18 purposes of this subsection, the term ‘eligible  
19 small business’ means, with respect to any tax-  
20 able year—

21 “(i) a corporation the stock of which  
22 is not publicly traded, or

23 “(ii) a partnership,  
24 which meets the gross receipts test of section  
25 448(c) (by substituting ‘\$50,000,000’ for

1           ‘\$5,000,000’ each place it appears) for the tax-  
 2           able year (or, in the case of a sole proprietor-  
 3           ship, which would meet the test if such propri-  
 4           etorship were a corporation).”.

5           (b) **EFFECTIVE DATE.**—The amendments made by  
 6 this section shall apply to credits determined in taxable  
 7 years beginning after December 31, 2009, and to  
 8 carrybacks of such credits.

9   **SEC. 5. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL**  
 10                   **BUSINESSES CARRIED BACK 5 YEARS.**

11           (a) **IN GENERAL.**—Section 39(a) (relating to  
 12 carryback and carryforward of unused credits) is amended  
 13 by adding at the end the following new paragraph:

14                   “(4) **5-YEAR CARRYBACK FOR ELIGIBLE SMALL**  
 15           **BUSINESS CREDITS.**—

16                           “(A) **IN GENERAL.**—Notwithstanding sub-  
 17                   section (d), in the case of eligible small business  
 18                   credits—

19                                   “(i) this section shall be applied sepa-  
 20                                   rately from the business credit (other than  
 21                                   the eligible small business credits) or the  
 22                                   marginal oil and gas well production cred-  
 23                                   it,

24                                   “(ii) paragraph (1) shall be applied by  
 25                                   substituting ‘each of the 5 taxable years’

1 for ‘the taxable year’ in subparagraph (A)  
 2 thereof, and

3 “(iii) paragraph (2) shall be applied—

4 “(I) by substituting ‘25 taxable  
 5 years’ for ‘21 taxable years’ in sub-  
 6 paragraph (A) thereof, and

7 “(II) by substituting ‘24 taxable  
 8 years’ for ‘20 taxable years’ in sub-  
 9 paragraph (B) thereof.

10 “(B) ELIGIBLE SMALL BUSINESS CRED-  
 11 ITS.—For purposes of this subsection, the term  
 12 ‘eligible small business credits’ has the meaning  
 13 given such term by section 38(c)(5)(B).”.

14 (b) CONFORMING AMENDMENT.—Section  
 15 39(a)(3)(A) is amended by inserting “or the eligible small  
 16 business credits” after “credit”).

17 (c) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to credits arising in taxable years  
 19 beginning after December 31, 2009.

20 **SEC. 6. DEDUCTION FOR ELIGIBLE SMALL BUSINESS IN-**  
 21 **COME.**

22 (a) IN GENERAL.—Paragraph (1) of section 199(a)  
 23 is amended to read as follows:

24 “(1) IN GENERAL.—There shall be allowed as a  
 25 deduction an amount equal to the sum of—

1 “(A) 9 percent of the lesser of—

2 “(i) the qualified production activities  
3 income of the taxpayer for the taxable  
4 year, or

5 “(ii) taxable income (determined with-  
6 out regard to this section) for the taxable  
7 year, and

8 “(B) in the case of an eligible small busi-  
9 ness for any taxable year beginning after 2009,  
10 20 percent of the lesser of—

11 “(i) the eligible small business income  
12 of the taxpayer for the taxable year, or

13 “(ii) taxable income (determined with-  
14 out regard to this section) for the taxable  
15 year.”.

16 (b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL  
17 BUSINESS INCOME.—Section 199 is amended by adding  
18 at the end the following new subsection:

19 “(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL  
20 BUSINESS INCOME.—

21 “(1) ELIGIBLE SMALL BUSINESS.—For pur-  
22 poses of this section, the term ‘eligible small busi-  
23 ness’ has the meaning given such term by section  
24 38(c)(5)(C).

25 “(2) ELIGIBLE SMALL BUSINESS INCOME.—



“(A) IN GENERAL.—For purposes of this section, the term ‘eligible small business income’ means the excess of—

“(i) the income of the eligible small business which—

“(I) is attributable to the actual conduct of a trade or business,

“(II) is income from sources within the United States (within the meaning of section 861), and

“(III) is not passive income (as defined in section 904(d)(2)(B)), over

“(ii) the sum of—

“(I) the cost of goods sold that are allocable to such income, and

“(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

“(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

“(i) Any income which is attributable to any property described in section 1400N(p)(3).

1 “(ii) Any income which is attributable  
2 to the ownership or management of any  
3 professional sports team.

4 “(iii) Any income which is attributable  
5 to a trade or business described in sub-  
6 paragraph (B) of section 1202(e)(3).

7 “(iv) Any income which is attributable  
8 to any property with respect to which  
9 records are required to be maintained  
10 under section 2257 of title 18, United  
11 States Code.

12 “(C) ALLOCATION RULES, ETC.—Rules  
13 similar to the rules of paragraphs (2), (3),  
14 (4)(D), and (7) of subsection (c) shall apply for  
15 purposes of this paragraph.

16 “(3) SPECIAL RULES.—Except as otherwise  
17 provided by the Secretary, rules similar to the rules  
18 of subsection (d) shall apply for purposes of this  
19 subsection.”.

20 (c) CONFORMING AMENDMENT.—Section 199(a)(2)  
21 is amended by striking “paragraph (1)” and inserting  
22 “paragraph (1)(A)”.

23 (d) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2009.

1 **SEC. 7. REDUCTION IN RECOGNITION PERIOD FOR BUILT-**  
2 **IN GAINS TAX.**

3 (a) IN GENERAL.—Paragraph (7) of section 1374(d)  
4 (relating to definitions and special rules) is amended to  
5 read as follows:

6 “(7) RECOGNITION PERIOD.—

7 “(A) IN GENERAL.—The term ‘recognition  
8 period’ means the 5-year period beginning with  
9 the 1st day of the 1st taxable year for which  
10 the corporation was an S corporation.

11 “(B) SPECIAL RULE FOR DISTRIBUTIONS  
12 TO SHAREHOLDERS.—For purposes of applying  
13 this section to any amount includible in income  
14 by reason of distributions to shareholders pur-  
15 suant to section 593(e), subparagraph (A) shall  
16 be applied without regard to the phrase ‘10-  
17 year’.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to taxable years beginning after  
20 December 31, 2010.

21 **SEC. 8. CARRYBACK OF NET OPERATING LOSSES OF CER-**  
22 **TAIN SMALL BUSINESSES ALLOWED FOR 5**  
23 **YEARS.**

24 Subparagraph (H) of section 172(b)(1) is amended  
25 to read as follows:

1           “(H) 5-YEAR CARRYBACK OF LOSSES OF  
2           CERTAIN SMALL BUSINESSES.—

3           “(i) IN GENERAL.—In the case of a  
4           net operating loss with respect to any eligi-  
5           ble small business for any taxable year  
6           ending after 2008, or, if applicable, fol-  
7           lowing the taxable year with respect to  
8           which an election was made by such eligi-  
9           ble small business under this subparagraph  
10          (as in effect before the date of the enact-  
11          ment of the Small Business Tax Relief Act  
12          of 2009)—

13                   “(I) subparagraph (A)(i) shall be  
14                   applied by substituting ‘5’ for ‘2’,

15                   “(II) subparagraph (E)(ii) shall  
16                   be applied by substituting ‘4’ for ‘2’,  
17                   and

18                   “(III) subparagraph (F) shall not  
19                   apply.

20                   “(ii) ELIGIBLE SMALL BUSINESS.—  
21           For purposes of clause (i), the term ‘eligi-  
22           ble small business’ has the meaning given  
23           such term by section 38(c)(5)(C).”.

1 **SEC. 9. MODIFICATIONS TO EXCLUSION FOR GAIN FROM**  
2 **CERTAIN SMALL BUSINESS STOCK.**

3 (a) TEMPORARY INCREASE IN EXCLUSION.—Para-  
4 graph (3) of section 1202(a) (relating to exclusion) is  
5 amended to read as follows:

6 “(3) SPECIAL RULES FOR STOCK ACQUIRED BE-  
7 FORE 2011.—In the case of qualified small business  
8 stock—

9 “(A) acquired after the date of the Amer-  
10 ican Recovery and Reinvestment Tax Act of  
11 2009 and on or before the date of the enact-  
12 ment of the Small Business Tax Relief Act of  
13 2009—

14 “(i) paragraph (1) shall be applied by  
15 substituting ‘75 percent’ for ‘50 percent’,  
16 and

17 “(ii) paragraph (2) shall not apply,  
18 and

19 “(B) acquired after the date of the enact-  
20 ment of the Small Business Tax Relief Act of  
21 2009 and before January 1, 2011—

22 “(i) paragraph (1) shall be applied by  
23 substituting ‘100 percent’ for ‘50 percent’,

24 “(ii) paragraph (2) shall not apply,  
25 and

1 “(iii) section 57(a)(7) shall not  
2 apply.”.

3 (b) INCREASE IN LIMITATION.—

4 (1) IN GENERAL.—Subparagraph (A) of section  
5 1202(b)(1) (relating to per-issuer limitation on tax-  
6 payer’s eligible gain) is amended by striking  
7 “\$10,000,000” and inserting “\$15,000,000”.

8 (2) MARRIED INDIVIDUALS.—Subparagraph (A)  
9 of section 1202(b)(3) (relating to treatment of mar-  
10 ried individuals) is amended by striking “paragraph  
11 (1)(A) shall be applied by substituting ‘\$5,000,000’  
12 for ‘\$10,000,000’ ” and inserting “the amount under  
13 paragraph (1)(A) shall be half of the amount other-  
14 wise in effect”.

15 (c) MODIFICATION OF DEFINITION OF QUALIFIED  
16 SMALL BUSINESS.—Section 1202(d)(1) (defining quali-  
17 fied small business) is amended by striking “\$50,000,000”  
18 each place it appears and inserting “\$75,000,000”.

19 (d) INFLATION ADJUSTMENTS.—Section 1202 (relat-  
20 ing to partial exclusion for gain from certain small busi-  
21 ness stock) is amended by redesignating subsection (k) as  
22 subsection (l) and by inserting after subsection (j) the fol-  
23 lowing new subsection:

24 “(k) INFLATION ADJUSTMENT.—

1           “(1) IN GENERAL.—In the case of any taxable  
 2           year beginning after 2009, the \$15,000,000 amount  
 3           in subsection (b)(1)(A), the \$75,000,000 amount in  
 4           subsection (d)(1)(A), and the \$75,000,000 amount  
 5           in subsection (d)(1)(B) shall each be increased by an  
 6           amount equal to—

7                   “(A) such dollar amount, multiplied by

8                   “(B) the cost of living adjustment deter-  
 9                   mined under section 1(f)(3) for the calendar  
 10                  year in which the taxable year begins, deter-  
 11                  mined by substituting ‘calendar year 2008’ for  
 12                  ‘calendar year 1992’ in subparagraph (B)  
 13                  thereof.

14           “(2) ROUNDING.—If any amount as adjusted  
 15           under paragraph (1) is not a multiple of \$1,000,000  
 16           such amount shall be rounded to the next lowest  
 17           multiple of \$1,000,000.”.

18           (e) EFFECTIVE DATES.—

19                   (1) EXCLUSION; QUALIFIED SMALL BUSI-  
 20                   NESS.—The amendments made by subsections (a)  
 21                   and (c) shall apply to stock acquired after the date  
 22                   of the enactment of this Act.

23                   (2) LIMITATION; INFLATION ADJUSTMENT.—  
 24                   The amendments made by subsections (b) and (d)

1       shall apply to taxable years ending after the date of  
2       the enactment of this Act.

3   **SEC. 10. DEDUCTION FOR HEALTH INSURANCE COSTS IN**  
4                   **COMPUTING SELF-EMPLOYMENT TAXES.**

5       (a) IN GENERAL.—Section 162(l) (relating to special  
6   rules for health insurance costs of self-employed individ-  
7   uals) is amended by striking paragraph (4) and by redes-  
8   ignating paragraph (5) as paragraph (4).

9       (b) EFFECTIVE DATE.—The amendments made by  
10   this section shall apply to taxable years beginning after  
11   the date of the enactment of this Act.

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